

lure body by placing the hook at or near the tail position of said body. Claim 18 includes the limitation that there is a weighted tube means in the artificial bait body for allowing a line to pass from the tail of the artificial bait body through the tube means and for causing the artificial bait body to be at a level position in the water while hanging on a fishing line. This limitation is neither disclosed nor suggested by Brokaw. That Brokaw's tube in Figure 4 could be metal or plastic does not mean that it is weighted. It could be made of either material and still not be weighted. Thus, Brokaw cannot be said to anticipate these claims.

Brokaw's design with a tubular member extending angularly upward and outward to the farthest point of the head section does not consider that a space must be allotted for a means of attachment of a whisker in the forwardmost position in the lure body. Claim 33 specifically claims whiskers, so it is not anticipated by Brokaw, nor is it rendered obvious by Brokaw. A reference does not anticipate a claim simply because an Examiner believes that undisclosed elements are present in a device made in accordance with it.

Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kinchen, Sr. in view of Preston. Applicant respectfully traverses this rejection. There is no reason why one would wish to substitute the magnets of Preston for the springs of Kinchen, Sr. Even if one did, one would not have a device as claimed for making a sound (rather, the device of Kinchen, Sr. simply vibrates). In all of the obviousness rejections herein, references are being combined without sufficient motivation to do so.

Claims 28, 35, 39, and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brokaw in view of Preston. This rejection is respectfully traversed.

Claim 28 is not rendered obvious by Brokaw and Preston. The device of Preston is a stand-alone lure, not intended to be used with another lure. It would not be obvious to add the device of Preston to the device of Brokaw. There is no motivation to combine the references as suggested.

All claims dependent on claim 18 and 28 are believed to be patentable by virtue of such dependence.

Claims 29, 30, and 36-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brokaw, Preston, and Kinchen, Sr. This rejection is respectfully traversed.

There is no motivation to combine the references as suggested.

All claims dependent on claim 18 and 28 are believed to be patentable by virtue of such

dependence.

All claims dependent on claim 18 are believed to be patentable by virtue of such dependence.

Applicant respectfully submits that the application is in condition for allowance. A Notice of Allowance is hereby respectfully requested.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, she is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for a one-month extension of time necessary to render this paper timely. The \$55 fee is attached. Applicant respectfully petitions the Commissioner for any other extension of time necessary to render this paper timely.

Please charge any fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 1<sup>st</sup> day of December, 2003.



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